



## **CMPAC's Assessment of Bill 166: Safeguarding Academic Freedom in Ontario's Post-Secondary Institutions**

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### **Overview**

The final version of Bill 166, known as the [\*Strengthening Accountability and Student Supports Act, 2024\*](#), has recently been passed by Ontario's legislative assembly, stirring debate among academics and university stakeholders. Initially introduced by Ontario Minister of Colleges and Universities Jill Dunlop on February 26, the bill purportedly aims to enhance campus safety and support services. However, its passage has fueled concerns regarding the potential infringement upon the autonomy and integrity of Ontario's post-secondary institutions. The Canadian Muslim Public Affairs Council (CMPAC) provides this assessment, expressing reservations that, while well-intentioned, the legislation may inadvertently compromise academic freedoms and democratic governance within universities.

Bill 166 proposes amendments to the *Ministry of Colleges and Universities Act*, by virtue of three main changes. However, for the purposes of the assessment herein, CMPAC will focus on the change that states, “*Every college and university is required to have policies and rules to address and combat racism and hate, including but not limited to anti-Indigenous racism, anti-Black racism, antisemitism and Islamophobia.*”<sup>1</sup>

### **Ministerial Oversight and Academic Freedom**

Ministerial oversight and academic freedom are pivotal aspects of Ontario's higher education landscape, yet they face potential jeopardy with the introduction of Bill 166. The proposed legislation bestows unprecedented power upon the Minister of Colleges and Universities, notably in shaping campus anti-racism policies.<sup>2</sup> This elevated authority extends to directing specific components of these policies, with the potential for unspecified punitive measures should institutions fail to comply.<sup>3</sup> Such broad discretion, lacking clear guidelines or mechanisms for accountability, raises concerns about the transparency and fairness of decision-making processes.

Moreover, the overarching concern lies in the threat posed to academic freedom, a fundamental principle underpinning scholarly inquiry and discourse. Academic freedom empowers educators and researchers to explore diverse viewpoints and pursue knowledge without fear of censorship, reprisal, or external interference. However, the broad powers granted to the Minister in Section 20 of Bill 166 risk compromising this freedom by potentially influencing or censoring academic discourse to align with political agendas. This infringement on academic autonomy not only undermines the integrity of educational institutions but also jeopardizes the quality and diversity of scholarly pursuits.

Furthermore, the proposed legislation also represents a departure from longstanding principles of academic autonomy and self-governance within Ontario's higher education sector. Traditionally, universities and colleges have operated with a degree of independence in governance and decision-making, fostering a collaborative environment conducive to intellectual growth and

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<sup>1</sup> See Bill 166, Explanatory Note, Page 2.

<sup>2</sup> Bill 166, Section 20.

<sup>3</sup> Bill 166, Section 20(5).



innovation. However, the concentration of power in the hands of the Minister undermines this autonomy, signaling a significant shift in the relationship between government oversight and institutional governance. CMPAC maintains that this departure raises concerns about the erosion of academic values and the integrity of Ontario's higher education sector as a whole.

### **Impact of Ministerial Directives on Palestine Discourse in Ontario's Universities**

The influence of Bill 166 goes beyond mere institutional governance, potentially shaping discussions on contentious geopolitical matters like Palestine within Ontario's universities. This influence also stems from the considerable discretionary authority conferred upon the Minister of Colleges and Universities to issue "ministerial directives", especially concerning policies related to anti-hate measures. CMPAC asserts that such directives may not only curtail legitimate debates but also silence certain political viewpoints, thus threatening the democratic fabric of university governance.

Moreover, CMPAC remains apprehensive about the implications of Bill 166 on legitimate protests and expressions of dissent on university campuses. By virtue of the discretionary powers granted, the Minister could potentially use these directives to limit activities such as pro-Palestinian advocacy on university campuses. Such restrictions pose a significant threat to students' ability to engage in critical dialogue on contentious geopolitical issues, thereby undermining the very essence of democratic discourse within academic settings.

### **Ambiguous Definitions in Addressing Multiple Forms of Discrimination**

In light of the preceding examination of Ministerial directives and their potential effects on academic discourse, concerns also emerge regarding the lack of clarity surrounding definitions of hate, racism, and the different forms of discrimination mentioned in Bill 166. This ambiguity raises significant concerns, particularly regarding its implications for marginalized communities and freedom of expression. Rather than offering a precise definition, Bill 166 grants broad discretionary powers to the Minister of Colleges and Universities, empowering them to delineate what constitutes hate or racism within educational settings. This lack of clarity raises fundamental questions about the transparency and fairness of hate policies within Ontario's universities and colleges, particularly in addressing issues such as anti-Palestinian racism, Islamophobia, and other forms of discrimination.

CMPAC's apprehension deepens concerning the potential integration of the International Holocaust Remembrance Alliance (IHRA) Working Definition of Anti-Semitism into university policies through such discretionary powers. Despite purportedly aiming to combat anti-semitism, this definition has faced widespread criticism for its ambiguous language and potential to stifle legitimate criticism of the State of Israel. CMPAC underscores the peril of constraining legitimate protests against Israel's actions through Ministerial directives, especially affecting students already confronting various forms of racism, including anti-Palestinian racism and Islamophobia. Such suppression could exacerbate their anxiety and alienation, further compromising their mental well-being, a concern that ostensibly underlies the intentions of Bill 166.

The aforementioned concerns underscore the potential ramifications of integrating the IHRA definition into university policies. Such integration not only risks stifling legitimate dissent but also threatens to curtail critical discourse on contentious geopolitical matters, particularly those surrounding Palestine. In granting unchecked authority to the Minister, Bill 166 fails to furnish the necessary safeguards to protect academic freedoms and marginalized communities within Ontario's post-secondary institutions.



## Political Interference

Last but not least, CMPAC underscores a fundamental concern regarding the potential for unprecedented political interference within Ontario's post-secondary institutions as a result of Bill 166. The protection of universities from such interference is not only a legal mandate enshrined in the [Ministry of Training, Colleges and Universities Acts](#) but also a cornerstone of democracy recognized internationally. However, Bill 166 introduces provisions that could undermine this autonomy by granting the Minister of Colleges and Universities unprecedented power over campus policies, including critical areas such as anti-racism measures.

Historically, all parties in Ontario have prioritized the preservation of university autonomy and academic freedom, recognizing their crucial role in fostering intellectual growth and innovation. Yet, the introduction of Bill 166 suggests a departure from these principles, potentially paving the way for political intervention in academic affairs. Notably, Section 20 of the legislation confers sweeping authority upon the Minister to direct specific components of campus policies, granting broad discretion that could influence the content and implementation of anti-racism measures. Such authority risks shaping academic discourse to align with political agendas, thus opening the door for direct political intervention in academic affairs and raising concerns about the erosion of university autonomy and academic freedom.

CMPAC asserts that to maintain universities as bastions of free thought and inquiry, shielding them from external political pressures is imperative. The autonomy of universities from political interference is essential for upholding academic integrity and fostering a culture of intellectual exploration and debate. Therefore, it is critical to scrutinize and challenge any legislation that threatens to undermine this autonomy, such as Bill 166, in order to safeguard the foundational principles of democracy and academic freedom within Ontario's post-secondary institutions.

## Concluding Remarks

In conclusion, while recognizing the commendable objectives of Bill 166 to enhance accountability and student supports, CMPAC stresses the critical need for vigilant consideration of its potential ramifications on academic freedom and freedom of expression within Ontario's post-secondary institutions. The primary concern lies in the significant discretionary powers granted to the Minister of Colleges and Universities, posing a threat to the autonomy and integrity of these institutions. Therefore, CMPAC advocates for specific measures to safeguard academic freedom and democratic governance within universities, including but not limited to the following:

1. Ministerial Accountability and Non-Politicization: The Minister of Colleges and Universities must be clearly bound to ensure that Bill 166 is not politicized. The legislation should not be utilized as a means to impose the IHRA definition of antisemitism or any one-sided political interpretation of hate and antisemitism. Definitions of hate and discrimination must be agreed upon through inclusive consultation with all stakeholders to maintain academic integrity and safeguard against misuse of legislative powers.
2. Transparency and Accountability Mechanisms: CMPAC insists on the establishment of transparent mechanisms to monitor and review the Minister's directives and interventions within post-secondary institutions. This includes regular reporting requirements to ensure accountability and adherence to principles of democratic governance.



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3. Consultation with Stakeholders: CMPAC calls for meaningful consultation with diverse stakeholders, including academic staff, students, and community representatives, in the development and implementation of policies related to campus safety, anti-racism measures, and academic freedom. Their input is crucial in ensuring that policies reflect the needs and values of the broader university community.
4. Protection of Dissenting Voices: CMPAC emphasizes the importance of protecting dissenting voices and minority perspectives within academic discourse. The Minister should ensure that policies aimed at combating racism and hate do not inadvertently suppress legitimate dissent or minority viewpoints, thereby fostering an inclusive and intellectually vibrant environment on campuses.
5. Safeguarding Academic Freedom: CMPAC urges a clear and firm stance against any encroachment on academic freedom and interference in university governance by the Ministry. CMPAC calls upon the Minister to address this concern directly by issuing a binding ministerial directive, following the legislation's royal assent, to safeguard academic freedom and democratic governance within universities. This directive should outline clear guidelines to ensure that the Minister's interventions respect and uphold the principles of academic autonomy and freedom of expression.
6. Inclusion of Comprehensive Definitions: CMPAC emphasizes the necessity for clear and comprehensive definitions of hate, racism, and discrimination within Bill 166, aligning with established legal frameworks such as the [Ontario Human Rights Code](#). These definitions provide essential guidance for developing effective anti-racism policies and preventing any ambiguity or misuse of discretionary powers.
7. Support for Marginalized Communities: CMPAC underscores the need for specific measures to support marginalized communities, including but not limited to Palestinians, Muslims, and other groups disproportionately affected by racism and discrimination. This includes targeted resources for education, support services, and initiatives to address systemic barriers and promote inclusion within post-secondary institutions.
8. Commitment to Intersectionality: CMPAC advocates for an intersectional approach to addressing racism and discrimination within Ontario's post-secondary institutions. Policies and initiatives should recognize and address the intersecting forms of oppression faced by individuals based on factors such as race, religion, disability, etc.

Last but not least, CMPAC emphasizes that this legislation must be utilized to address all forms of hate and discrimination effectively, ensuring a balanced approach that respects diverse perspectives on such issues. It is crucial to engage all stakeholders, fostering dialogue and collaboration rather than promoting a one-sided interpretation. To achieve this inclusive approach, CMPAC encourages the Minister of Colleges and Universities to issue a further comprehensive binding ministerial directive to adopt the definition of anti-Palestinian racism outlined in the policy paper titled "*Combating Anti-Palestinian Racism and Antisemitism: Intersectionality within Canada's Anti-Racism Strategy*." This directive should guide post-secondary institutions under the Minister's purview to adopt a nuanced understanding of anti-Palestinian racism and antisemitism in their policies and regulations, ensuring compliance with Section 20 of the Act while safeguarding students' rights to express their views and assemble peacefully on campus. Such measures are essential for cultivating an education environment that upholds principles of diversity, inclusivity, and robust academic inquiry.